

REMARKS/ARGUMENTS

The Office Action mailed August 10, 2005 has been received and its content carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner is kindly thanked for her exemplary assistance on November 2, 2005 during an interview in which the rejection under § 103(a) was discussed. Without conceding the propriety of the rejection under § 103(a), each of the independent claims 1, 7, 13 and 20 have been amended. Specific support for these amendments is to be found, at least, in paragraph 20 of the Specification.

REJECTIONS UNDER 35 U.S.C. § 103(a) (U.S. Patent No. 6,212,924 to Claudio Meisser)

Claims 1, 2, 4-8, and 10-27 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 6,212,924 to Claudio Meisser (Hereinafter referred to as, “the Meisser document”). The Applicants respectfully submit that the amendments made to claims 1, 7, 13 and 20 obviate this rejection and thus, respectfully request reconsideration and withdrawal of the rejection to claims 1, 7, 13 and 20 and the claims that depend therefrom.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge already available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations. See MPEP § 2143.

A *prima facie* case of obviousness has not been made in that the Meisser document fails to teach or suggest the invention as recited in newly amended claims 1, 7, 13, and 20 of the present application.

The Meisser document is directed to a device that evaluates and calibrates a mechanical crimping press. During use, the Meisser device is disposed within the crimping press. *See FIGS. 6-8 and Column 4 lines 39-41.* The crimping press does not include a handle or any other structure that is hand-operable but instead, utilizes a motor to perform crimping operations. *See FIG. 6 and Column 4 lines 30-57.* That is, the Meisser document discloses a crimping press that makes no accommodation for hand *operation*. Instead, the Meisser device includes a button for hand *initiation*. In addition, the Meisser evaluation and calibration device makes no accommodation to function with or in the place of a hand tool evaluation device. More particularly, structures to interact with hand tools are absent from the Meisser document. In contrast, claim 1 recites, *inter alia*, a first rest attached to the actuator, the first rest providing a surface to bear against the first end of the second sensor and the first rest providing a surface to bear against the first handle and a second rest in cooperative alignment with the first rest, the second rest providing a surface to bear against the second end of the second sensor and the second rest providing a surface to bear against the second handle. Also in contrast to the Meisser document, claim 7 recites, *inter alia*, a first rest attached to the actuator to provide a surface to bear against the first handle member of the hand-operable tool, a second rest to provide a surface to bear against the second handle member of the hand-operable tool, and a second sensor operable to sense force exerted by the actuator and transmit signals associated with the sensed force, wherein the first rest provides a surface to bear against a first side of the second sensor and the second rest provides a surface to bear against a second side of the second sensor. Further in

contrast to the Meisser document, claim 13 recites, *inter alia*, means for bearing against the second sensor and bearing against the first and second handles of the hand-operable tool. Further again in contrast to the Meisser document, claim 20 recites, *inter alia*, disposing a second sensor between a pair of rests of the tool evaluator, the pair of rests providing respective surfaces to bear against the second sensor and the pair of rests providing respective surfaces to bear against the first handle and the second handle of the hand-operable tool. The Meisser document fails to disclose, at least, any structure to provide a bearing surface for a handle or handle member of a hand-operable tool and that also provides a bearing surface for the second sensor. As such, the calibration device of the present invention is patentably distinct from the calibration device of the Meisser document.

In view of the foregoing, withdrawal of the 35 U.S.C. § 103(a) rejection to claims 1, 7, 13 and 20 and the claims that depend therefrom as being anticipated by the Meisser document is respectfully requested at least because the Meisser document fails to disclose any structure to provide a surface to bear against a hand-operable tool. Claims 2 and 4-6 depend from independent claim 1. Claims 8 and 10-12 depend from independent claim 7. Claims 14-19 depend from independent claim 13. Claims 21-27 depend from independent claim 20. In light of the foregoing, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 2, 4-8, and 10-27 as being anticipated by the Meisser document is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Meisser document in view of U.S. Patent No. 4,838,085 to Roy F. Pellerin et al.)

Claims 3 and 9 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Meisser document in view of U.S. Patent No. 4,838,085 to Roy F. Pellerin et al. Initially, the

Applicants note that claim 3 depends from independent claim 1 and claim 9 depends from independent claim 7 and that claims 1 and 7 are believed to be patentable for at least the reasons stated hereinabove. Applicants further note that any claim that depends from an allowable claim is also allowable. Therefore, Applicants respectfully request that the rejection to claims 3 and 9 be removed.

REJECTIONS UNDER 35 U.S.C. § 112


Claims 7-12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 has been amended to recite, *inter alia*, an actuator to move the first handle member relative to the second handle member. Therefore, Applicants respectfully request that the rejection to claims 7-12 be removed.

In view of the foregoing, reconsideration and allowance of this application is believed in order and such action is earnestly solicited. Should the Examiner believe that a telephone conference would facilitate examination of the application, the Examiner is respectfully invited to telephone the undersigned at (202) 861-1629.

In the event this paper is not timely filed, the Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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